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EXAMINER

D AGOSTINO, PAUL ANTHONY

ART UNIT	PAPER NUMBER
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3714

NOTIFICATION DATE	DELIVERY MODE
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07/17/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

Office Action Summary	Application No. 10/668,560	Applicant(s) BARTHOLOMEW ET AL.	
	Examiner Paul A. D'Agostino	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-38,40-73,75,76 and 78-92 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-38,40-73,75,76 and 78-92 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This responds to Applicant's Arguments/Remarks filed 01/21/2009. Claims 1, 23, and 58 have been amended. Claims 7, 39, 74, and 77 have been cancelled. Claims 1-6, 8-38, 40-73, 75-76, and 78-92 are now pending in this application.

Response to Amendment

1. This acknowledges amendments to Claims 1, 23, and 58 rejected under 35 U.S.C. 112, first paragraph. Thus, the rejection of Claims 1-6, 8-38, 40-73, 75-76, and 78-92 under 35 U.S.C. 112, first paragraph, is withdrawn.
2. Further, Applicant argues to overcome an inherency argument under 35 U.S.C. 102 directed to the lack of inherency in Olsen that "it is not inherent that the unique identifier of each gaming machine corresponds to a location of the gaming machine" (see Applicant's Arguments/Remarks pages 15-17). However, since the recitation of whether a bonus session is active is based on a location or type of gaming machine has been removed from the claims, all arguments of inherency are moot.
3. This Examiner is also going to consolidate the Office Actions to remove all "incorporated by reference" rejections and references obsolete from past amendments.

Claim Objections

4. Claims 42 and 61 are objected to because of the following informalities: Claims 42 and 61 are not proper dependent claims. Claim 42 depends from cancelled Claim 39 and Claim 61 depends from itself. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1, 23, and 58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims as amended recite “a session identifier configured to indicate if a bonus is active based on whether or not the player received a bonus award ...” It is unknown in what state the bonus is active. Is the bonus active when a player does or does not receive a bonus award during a session? One can reasonably interpret the present claim to mean that an indicator indicates an active bonus session independent of the player receiving a bonus award during the gaming session. To advance prosecution, Examiner will interpret the claim to mean that if a bonus has not been awarded during a gaming session the session indicator will indicate that a bonus session is active.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3714

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1-6, 8-23, 25, 27-37, 42-43, 45-46, 48-49, 51-54, 57-58, 60, 62-72, 78, 80-81, 83-84, 86-89, and 92 are rejected under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,146,273 to Olsen (Olsen) in view of U.S. Patent No. 5,655,961 to Acres et al (Acres).

In Reference to Claims 1, 8-10, 18-23, 27-37, 39, 58, 60, and 62-72

Olsen discloses a system for awarding a random bonus award (Figs. 3A and 10-

Art Unit: 3714

11 wherein eligible players enter a bonus mode time period (Col. 3 Lines 40-45 wherein eligible gaming machines are “locked in” to a bonus session (Col. 12 Lines 20-40 and Col. 13 Lines 60-62), comprising:

a gaming machine (Fig. 2 gaming machines 230 G1 to G_k);

a set of bonus awards including at least two bonus awards including a first {second} non-default awards (Fig. 2 “Payouts 1” to “Payout J” 294), default award (Col. 24 Lines 40-45) and set of bonus awards are drawn from cash, credits, and non-monetary awards (Col. 17 Lines 5-15 and Col. 25 Lines 35-45);

a criterion dependent on at least one of a status of a player and an action of the player (Col. 3 Lines 60-65 wherein the player inputs a predetermined amount to make the machine “eligible” for the bonus game; “Eligibility can be based upon other conventional conditions at the gaming machine such as the insertion of a player tracking card, in which case eligibility is lost when the card is removed” Col. 12 Lines 48-52);

a session identifier (Fig. 2 “Bonus Mode Start” 248 wherein a detection of the condition begins the session wherein “Hence, at a bonus mode start all machines having player tracking cards inserted are eligible” Col. 12 Lines 50-55);

a player tracker database (implicitly disclosed as the gaming machine is able to read a player tracking card Col. 12 Lines 45-55);

a selector configured to select a bonus award at random from the set of bonus awards if the session identifier indicates that the bonus session is active (Fig. 2 “Payout Selector” 292 wherein “a randomly chosen bonus mode activation value or trigger 218 is also provided” Col. 6 Lines 55-58 and col. 11 Lines 13-16);

an awarder configured to deliver the selected bonus award to the player after the player meets the criterion (Fig. 2 “Pay Winner” 254 and Col. 1 Lines 40-45) which includes a graphical display (Fig. 9 “Display” 920 and Col. 21 Lines 1-5) including a single display or multiple displays (Col. 9 Lines 45-48) and wherein the bonus is selected randomly (random bonus jackpots are made during the bonus time period. (Col. 3 Lines 40-48); and

a computer readable medium and a program configured to carry out the steps of the method (Olsen discloses known programming Col. 5 Lines 39-52 and “In the preferred embodiment, the controller 200 is programmed and these functions exist in associated memory.” Col. 7 Lines 1-3).

Olsen is not explicit on indicating if a bonus session is active based on whether or not the player received a bonus award from the set of bonus awards during a session.

Acres teaches of a system and method for operating networked gaming devices (Title and Fig. 34) wherein Acres teaches activating and deactivating bonus sessions within individual gaming machines and determining if a bonus session is active for each gaming machine and if criteria is met, turning on the bonus e.g. a bonus pay table (Fig. 34). Acres also discloses known player tracking and tracking databases in which each transaction, whether it be a coin in, a handle pull, etc., is recorded by the system (Col. 3 Lines 13-37) and the tracking of bonus events and payouts “when certain conditions are met” (Col. 6 Lines 48-57), comprising a session identifier configured to indicate if a bonus session is active based on whether or not the player received a bonus award

Art Unit: 3714

from the set of bonus awards during a session (Acres operates off of a set of reconfiguration commands that activate a bonus payout table Col. 9 Lines 63-67) in conjunction with a player tracking module 44 (Col. 11 Lines 10-30) via a floor controller. "The floor controller is responsible for monitoring the activity of each of the gaming devices connected thereto and reporting this activity to the database 32..."the floor controller is responsible for transmitting a reconfiguration command to a selected one or more of the gaming devices during certain bonus conditions (Col. 18 Lines 57-67). The system has "the ability to record how long each player spends at each machine and the number of coins won, games played, and hand jackpots won by each player. All this information is stored on the database, which can later be analyzed for future-targeted direct mail campaigns (Col. 20 Lines 22-34) such that "the floor controllers are responsible for activating or deactivating the bonusing for the individual machines" (Col. 37 Lines 30-32). Further, "Some games or promotions require the player to reach a certain level of activity in order to be eligible for certain bonus points. These countdown counts are used to determine whether the player has achieved this level of activity....If the countdown count is active, the DCN adjusts the current players count down values in step 284 based on the corresponding adjustment of the associated meter" (Col. 22 Lines 31-46). Thus, Acres records all transactions in a player tracker database wherein the session identifier which indicates an active bonus session is the recordation of the transpiring of a countdown to an active state. Note: Applicant claims a session is indicated as active "whether or not the player receives a bonus award from the set of bonus awards during a session". Examiner reasonably interprets this limitation to mean

Art Unit: 3714

a) that the active status is independent of whether the player previously won a bonus and b) that if a bonus was awarded the bonus is inactive. In either case, these situations are covered by the countdown count of Acres (Col. 28 Lines 23-36 wherein player tracking begins to determine if a player has received new points and if no new points have been awarded than a countdown message is initiated activating a bonus session (Col. 28 Lines 23-36 and Col. 31 Lines 31-39). Acres provides this system and method in order to provide “a more flexible bonusing system whereby any of the casino’s machines can participate in the bonusing” (Col. 2 Lines 27-29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the player tracking database and bonus activation as taught by Acres into the teachings of Olsen in order to provide “a more flexible bonusing system whereby any of the casino’s machines can participate in the bonusing” (Col. 2 Lines 27-29).

In Reference to Claims 2-6, 25, and 60

Olsen as modified by Acres discloses a player identifier (Col. 12 Lines 45-55); a card reader (implicitly disclosed wherein “Hence, at bonus mode start all machines having player tracking cards inserted are eligible” Col. 12 Lines 45-55); and wherein the selector is configured to select the bonus award after the player is identified by the player identifier (Col. 12 Lines 45-55).

In Reference to Claims 11-17

Olsen as modified by Acres discloses an awarded that includes text ("messages" Col. 9 Lines 52-63); audio messages and speakers ("sounding alarms" Col. 9 Lines 52-63) and "machine announces" of Col. 24 Lines 45-62); a bonus server (Fig. 2 200), criterion selector (Fig. 2 262, 292, and a network (Fig. 2 230); an identifier if the bonus is active and the selector is operative only if the bonus is active (Col. 3 Lines 40-45, and Col. 22 Lines 30-35); a player tracking database connected to the network (Col. 12 Lines 45-55); and means for accessing the player tracker database (Col. 12 Lines 45-55).

In Reference to Claims 42-43, 45-46 and 78, 80-81

Olsen as modified by Acres discloses wherein awarding the selected bonus award to the player includes awarding the selected bonus award to the player if the bonus session is active (Col. 21, Lines 35-50); wherein awarding includes: receiving a message about the selected bonus award at a gaming machine in use by the player (Col. 9, Lines 40-60); verifying at the gaming machine that the player still satisfies the criterion and awarding the selected bonus award to the player by the gaming machine if the gaming machine verifies that the player still meets the criterion for the bonus award (Col. 11, Lines 55-60; Col. 12, Lines 1- 55); wherein awarding the selected bonus award to the player includes notifying the player of the selected bonus award (Col. 9, Lines 40-60); and wherein notifying the player of the selected bonus award includes displaying a text message to the user (Col. 9, Lines 40- 60).

In Reference to Claims 48-49, 51-54, 57, 83-84, 86-89, and 92

Olsen as modified by Acres discloses presenting an audio announcement (Col. 9, Lines 40-60); video announcement (Col. 9, Lines 40-60); wherein presenting a video announcement includes presenting an audio announcement (Col. 9, Lines 40-60); wherein presenting a video announcement includes presenting the video announcement on a primary display of the gaming machine (Col. 9, Lines 40-60); wherein presenting a video announcement includes presenting the video announcement on a secondary display of the gaming machine (Col. 9, Lines 40-60); wherein notifying the player of the selected bonus award includes notifying the player of the selected bonus award if the selected bonus award is anything other than a default award of nothing (Claim 24(d)); and further comprising expiring the selected bonus award for the player if a condition is met, the condition drawn from a set including: a time limit; an arrival of an end of the bonus session; and the player ending play (Col. 12, Lines 45-55; Col. 24, Lines 30-40).

11. Claims 24, 26, 38, 40-41, 44, 47, 55-56, 59, 61, 73, 75-76, 79, 82, and 90-91 are rejected under 35 U.S.C. 103(a) as obvious over Olsen in view of U.S. Patent Pub. No. 2002/0187834 to Rowe et al. (Rowe).

In Reference to Claims 24, 26, 38, 59, 61, and 73

Olsen discloses a system substantially equivalent to Applicant's claimed invention wherein identifying a criterion includes identifying the criterion drawn from a set including: an account of the player in a player tracking database is flagged (Col. 12, Lines 45-55); the player has played a minimum amount of coin-in (Col. 3, Lines 60-65);

Art Unit: 3714

and the player has a minimum amount of continuous play (Col. 11, lines 50-55).

However, Olsen fails to disclose play for a minimum amount of time; the player has achieved a combination of positive gaming machine outcomes; the player has a minimum number of handlers per trip; and the player has a minimum number of handles per unit time; selecting a bonus award includes selecting the bonus award after the player is identified; awarding the selected bonus award includes awarding the selected bonus award to the player before the player has begun to play the gaming machine; and further comprising awarding a consolation award to a second player.

Rowe teaches of a system for monitoring game play (Title) wherein bonus criterion is for a minimum amount of time ([0124]); the player has achieved a combination of positive gaming machine outcomes ([0124]); the player has a minimum number of handlers per trip or per unit time ([0124]). Further, Rowe teaches of selecting the bonus award after the player is identified; and awarding the selected bonus award includes awarding the selected bonus award to the player before the player has begun to play the gaming machine ([0129]); and of awarding a consolation award to a second player ([0129]). Rowe provides this system and method in order to a) attract players to gaming machines that are not being played, b) give the player an incentive to stay longer and make more wagers, and c) prevent the player from feeling bad about not winning an award thereby giving the player an incentive to still play the gaming machine.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the limitations as taught by Rowe into the teachings of

Art Unit: 3714

Olsen in order to provide a) attract players to gaming machines that are not being played, b) give the player an incentive to stay longer and make more wagers, and c) prevent the player from feeling bad about not winning an award thereby giving the player an incentive to still play the gaming machine.

In Reference to Claims 40-41, 44, 75-76, and 79

Olsen discloses a system substantially equivalent to Applicant's claimed invention wherein identifying a bonus award includes selecting the bonus award at random from a set of bonus awards associated with the bonus session for the type of gaming machine (292, Fig.2; Col.1, Lines 40-45). However, Olsen fails to disclose wherein determining that a bonus session is active includes: determining a type of a gaming machine being used by the player; and determining that a bonus session is active for the type of the gaming machine; wherein returning the selected bonus award to the set of bonus awards if the gaming machine fails to verify that the player still meets the criterion for the bonus award; and further comprising returning the selected bonus award to the set of bonus awards if the gaming machine fails to verify that the player still meets the criterion for the bonus award.

Rowe discloses wherein determining that a bonus session is active includes: determining a type of a gaming machine being used by the player; and determining that a bonus session is active for the type of the gaming machine ([0010]); wherein returning the selected bonus award to the set of bonus awards if the gaming machine fails to verify that the player still meets the criterion for the bonus award ([0123]); and further

Art Unit: 3714

comprising returning the selected bonus award to the set of bonus awards if the gaming machine fails to verify that the player still meets the criterion for the bonus award ([0123] While Rowe does not state that an award is returned, it would have been obvious to one of ordinary skill in the art at the time the invention was made to return the award if the player does not match the criteria in order to prevent the award from being given to an incorrect player).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the aforementioned limitations in order to promote certain types of gaming machines.

In Reference to Claims 47, 55-56, 82, and 90-91

Olsen discloses a system substantially equivalent to Applicant's claimed invention. However, Olsen fails to disclose wherein displaying a text message includes displaying the selected bonus award in the text message; and identifying the player as having received the selected bonus award including identifying the player in a player tracking database as having received the selected bonus award.

Rowe discloses wherein displaying a text message includes displaying the selected bonus award in the text message ([0128]); and identifying the player as having received the selected bonus award including identifying the player in a player tracking database as having received the selected bonus award ([0005], [0121]).

It would have been obvious to one of ordinary skill in the art at the time the

Art Unit: 3714

invention was made to include the limitations as taught by Rowe into the invention of Olsen in order to provide the player and nearby players with information as to the amount of the award and to keep track of the number of awards provided to players.

12. Claims 50 and 85 are rejected under 35 U.S.C. 103(a) as obvious over Olsen in view of U.S. Patent Pub. No. 200210042294 to Pau (Pau).

Olsen discloses a system substantially equivalent to Applicant's claimed invention. However, Olsen fails to disclose wherein presenting a video announcement includes simulating the random selection of the selected bonus award.

Pau discloses wherein presenting a video announcement includes simulating the random selection of the selected bonus award (Claim 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the limitation as taught by Pau into the teachings of Olsen in order to create excitement for the player as the random award is being selected.

Response to Arguments

13. Applicant's arguments (see Applicant's Arguments/Remarks pages 15-24) with respect to claims 1, 23, and 58 and their dependent claims have been considered but are moot in view of the new ground(s) of rejection. Applicant argues against Examiner inherency argument yet has amended the claims making those arguments moot. Applicant argues that a session identifier that indicates if a bonus session is active based on whether or not the player has received a bonus award during a session

Art Unit: 3714

distinguishes the claimed invention over the prior art. Examiner respectfully disagrees. Olsen as modified by Acres checks for the award of a bonus and if not, starts a countdown count which results in the award of bonus points. This status is tracked in a player tracking database as all transactions are tracked. Moreover, Examiner reasonably reads the claim to actually make checking the status of a bonus award independent of a prior award (i.e., active status is checked whether or not a player received a bonus). Thus, the rejection of Claims 1, 23, and 58 and their dependent claims is maintained.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3714

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. D'Agostino whose telephone number is (571)270-1992. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m..

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art
Unit 3714

/Paul A. D'Agostino/
Examiner, Art Unit 3714